



Fair Political Practices Commission

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NEWS RELEASE

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Judge dismisses tribe's appeal in FPPC campaign disclosure case *Agua case returned to trial court which rejected sovereignty claims*

In a second major legal victory for the Fair Political Practices Commission in a case involving tribal sovereignty, the 3rd District Court of Appeal has denied without comment an appeal by the Agua Caliente Band of Cahuilla Indians of a Sacramento Superior Court ruling that rejected the tribe's claims of immunity from state campaign disclosure laws.

"We are very pleased with this order," said FPPC Chairman Liane Randolph. "It is essential to the integrity of the political process in California that significant contributors such as the Agua Caliente tribe provide full disclosure of their campaign and lobbying activities. The voters of California are entitled to know who is contributing to campaigns -- or attempting to influence the political process -- and the FPPC is committed to enforcing these important disclosure laws. This decision further validates that commitment."

Steven Russo, chief of the FPPC's Enforcement Division, said the ruling "confirms the strength of our position. While tribal sovereign immunity must be respected, that immunity has to yield to the sovereign power of the People of the State of California to safeguard their own elections."

Sacramento Superior court Judge Loren McMaster on Jan. 27 denied the tribe's motion to dismiss a lawsuit filed by the FPPC against the Agua Caliente Band for violating state campaign contribution and lobbyist disclosure laws. The tribe filed a petition April 7 asking the appellate court to overturn McMaster's ruling that the FPPC has enforcement jurisdiction over the tribe. Agua contends that because of tribal sovereignty, the commission has no such enforcement authority.

The appellate court order, signed yesterday (April 24) by Acting Presiding Justice Richard Sims, returns the case to the trial court, unless the tribe is able to persuade the California Supreme Court to review the matter. It has 10 days to file a petition with the Supreme Court asking for review. A copy of the order is attached, or available on the FPPC Web site at www.fppc.ca.gov. Go to "litigation" on the web site to find court documents related to the Agua case, including the tribe's appellate petition and McMaster's Jan. 27 decision.

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In a strongly worded ruling, McMaster said the requirements of the Political Reform Act “for the reporting of large campaign contribution and legislative lobbying activities, which are designed to assure that the State’s political processes are free from the influence of anonymous wealthy interests and that the electorate is informed about such influence when voting for political candidates and initiative measures, fall squarely within the State’s reserved power to regulate its political processes and protect the integrity of its republican form of government.”

Noting that “no federal law addresses the State’s regulation of its electoral and legislative processes with respect to Indian tribes,” McMaster said the state “may properly regulate Indian tribes along with all other persons pursuant to the requirements and enforcement mechanisms of the [Political Reform Act] designed to protect the integrity of the State’s political processes, including the mechanism of judicial enforcement. Such enforcement does not fall within the scope of tribal self-governance and development protected by the doctrine of tribal immunity.”

“The FPPC here seeks to do no more than to timely and effectively enforce disclosure requirements for contributors to the State’s election and legislative process of the type that were specifically upheld by the United States Supreme Court,” he concluded.

The suit alleges that the tribe made contributions of more than \$7.5 million to California candidates and political committees between Jan. 1 and Dec. 31, 1998, but did not file major-donor reports disclosing that activity until late 2000. The commission also contends in the suit that the Agua Caliente Band failed to timely disclose more than \$1 million in late contributions, and that the tribe failed to disclose the specific bills and offices being lobbied on its behalf in four quarterly lobbyist employer reports filed in 2001.

The suit was originally filed last July 31, then amended to add additional claims. A hearing on the tribe’s motion to dismiss was held Jan. 8 before Judge McMaster.

Representing the FPPC on the tribal sovereignty issues is Sacramento attorney Charity Kenyon of Riegels Campos & Kenyon LLP. The case is also handled for the FPPC by Russo, with assistance from FPPC General Counsel Luisa Menchaca and staff counsel William L. Williams and Holly B. Armstrong.

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